

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

COLUMBIA GAS TRANSMISSION, LLC,

Plaintiff,

v.

Case No. _____

90.02 ACRES MORE OR LESS SITUATED IN DONEGAL
TOWNSHIP, WASHINGTON COUNTY, PARCEL
IDENTIFICATION NUMBER 230-021-00-00-0011-00
(owned by Duane Douglas Wolfe and Bridget A. Wolfe);

DUANE DOUGLAS WOLFE
1023 Route 231 North
Claysville, Pennsylvania 15323;

and

BRIDGET A. WOLFE
1023 Route 231 North
Claysville, Pennsylvania 15323,

Defendants.

COMPLAINT IN CONDEMNATION

Nature of the Case:

1. Plaintiff Columbia Gas Transmission, LLC (“Columbia”), pursuant to its power of eminent domain as authorized by Section 7(h) of the Natural Gas Act, 15 U.S.C. § 717f(h), and pursuant to Federal Rule of Civil Procedure 71.1, files this action for: (i) the taking of certain interests in real property (the “Property,” as further defined below); (ii) immediate entry and possession of the real property; and (iii) the ascertainment and award of just compensation and damages to Defendants Duane Douglas Wolfe and Bridget A. Wolfe, the real property owners identified below (collectively, the “Wolfe”), if any were to be appropriate.

2. Columbia already has record title to the subsurface mineral interests beneath the Property pursuant to a Lease dated June 24, 1967 between Margaret M. Brownlee and Harry R.

Brownlee and The Manufacturers Light and Heat Company (Columbia's predecessor-in-interest), recorded in the deed records of Washington County, Pennsylvania at volume 1263, page 521 (the "Lease"). Nonetheless, the Wolfes have taken the position that the Lease is invalid in litigation pending in the Court of Common Pleas of Washington County (case number C-63-CV-201205482).

3. Accordingly, for the avoidance of any doubt, Columbia brings this action as a protective measure, to confirm its continuing legal right to utilize the Property for natural gas storage operations, regardless of the outcome of the pending lawsuit brought by the Wolfes.

Jurisdiction:

4. This Court has original jurisdiction in this matter pursuant to 28 U.S.C. § 1331 and Section 7(h) of the Natural Gas Act, 15 U.S.C. § 717f(h), because (a) Columbia is the holder of certificates of public convenience and necessity for, among other things, the creation and operation of the storage reservoir and protective boundaries of its Donegal Storage Field; (b) Columbia has been unable to reach an agreement with the Wolfes confirming Columbia's right to utilize the Property; and (c) the value of the Property to be taken exceeds \$3,000.00.

Parties:

5. Columbia is a Delaware limited liability company, whose sole member is Columbia Energy Group, a Delaware corporation with its principal place of business at 200 Civic Center Drive, Columbus, Ohio 43215. Columbia is an interstate natural gas company as defined by Section 717a (6) of the Natural Gas Act, 15 U.S.C. § 717 et. seq., and as such, is qualified to construct, own, operate and maintain pipelines and related facilities for the transmission of natural gas and its by-products. Columbia's authorization to transport natural gas in interstate commerce is granted by and subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC").

6. The Wolfes are residents of Pennsylvania who reside at 1023 Route 231 North, Claysville, Pennsylvania 15323. The Wolfes are the record owners of a certain parcel of real property in Donegal Township, Washington County, Pennsylvania, described as Parcel

Identification Number 230-021-00-00-0011-00, and comprising 90.02 acres, more or less (the “Property”), pursuant to a General Warranty Deed dated July 14, 1999 and recorded in the Recorder’s Office of Washington County, Pennsylvania on July 14, 1999 as instrument number 199958705. The Property may be more fully described as follows:

All that certain tract of land situated in Donegal Township, Washington County, Pennsylvania, bounded and described as follows:

BEGINNING at a stake in a line now or formerly of John Cunningham, at a stake in a line now or formerly of John Cunningham, near the top of the ridge and on the eastern slope, at a corner to a tract once conveyed to Wiley F. and John G. Miller; thence with two of their lines North 17° 49’ East 3,173.2 feet to a wild cherry corner on the upper side of the public road; thence North 76° 17’ East 454.8 feet to a stake; thence North 89° 39’ East 394.1 feet to a stone; thence along land now or formerly of John L. Mealy South 18° 22’ East 957.8 feet to a stake; thence South 4° 4’ West 1,044.4 feet to a white oak; thence with the same and a line now or formerly of Gunther Brothers South 30° 29’ West 2,039.9 feet to a post standing between a large white oak and a black oak, marked as witnesses, a corner to lands now or formerly of John Cunningham; thence with the same 60° 10’ West 1,155.9 feet to the place of beginning.

EXCEPTING thereout and therefrom the tract of land conveyed to James R. Bauer and Robin L Bauer, his wife, by the deed dated July 22, 1982, and recorded August 4, 1982, in the Recorder’s Office of Washington County Pennsylvania, in Deed Book 2077, page 302, and the tract of land devised to James Bauer, Jr., by the will of Paul Boyko, also known as Paul Boyko, Jr., deceased August 26, 1990, dated August 17, 1990, and filed in the office of the Register of Wills of said Washington County in Will Book 178, Page 130, a survey of which, dated November 26, 1990, appears in Washington County Plan book 22, Page 311, recorded January 17, 1991.

Columbia’s Operation of the Donegal Storage Field Pursuant to FERC Certificates of Public Convenience and Necessity:

7. Columbia has exclusively owned and operated the Donegal Storage Field in Washington County, Pennsylvania since 1940. Pursuant to continuing FERC authorization, Columbia uses the Donegal Storage Field to store the gas it transports in interstate commerce, to and from its customers, in an underground reservoir.

8. For its natural gas storage operations, Columbia utilizes the Gordon Stray formation, defined as the interval lying between a point 50 feet above and a point 100 feet below

the top of the Gordon Stray Sandstone in the Catskill Group of Upper Devonian Age. The storage formation utilized by Columbia may also be defined as that interval which occurs between 600 to 800 feet below the base of the Mississippian Big Injun formation.

9. On September 13, 1993, FERC granted Columbia a Certificate of Public Convenience and Necessity, reported at 64 F.E.R.C. ¶ 62,176, reaffirming Columbia's authorization to utilize the Donegal Storage Field within defined reservoir and protective zone boundaries. This certificate is attached hereto as ***Exhibit 1*** and is incorporated by reference.

**Columbia's Need to Obtain Easements in Order to Conduct
FERC Certificated Natural Gas Storage Activities:**

10. In order to conduct its natural gas storage operations pursuant to the above-cited FERC certificate, Columbia wishes to re-secure its rights to a permanent easement across, over, under, and through the Property (collectively, the "Easement"). This Easement will encumber the entirety of the Property (as described below). This Easement is necessary for constructing, maintaining, operating, altering, testing, replacing and repairing Columbia's Donegal Storage Field. The specific rights requested from each Landowner are outlined in ***Exhibit 2***.

11. The Wolfes shall retain the right to use the Properties in any manner that will not interfere with Columbia's use and enjoyment of its rights under the Easement and the Lease (if the Lease is held to be valid and in effect in the related lawsuit). This includes (without limitation) the right to use the surface over the Easement in such manner as will neither injure nor interfere with the construction, operation, and maintenance of the Donegal Storage Field.

12. Columbia has negotiated with the Wolfes in good faith and made bona fide efforts to reach agreement confirming Columbia's right to utilize the necessary Easement. To date, Columbia has been unable to obtain an agreement confirming its right to the Easement by contract, or to agree with the Wolfes upon any compensation to be paid.

13. Pursuant to the authority granted to it by Section 7(h) of the Natural Gas Act, 15 U.S.C. § 717f (h), Columbia now seeks to take by eminent domain the Easements described herein and on ***Exhibit 2***, without prejudice to any rights it may have under the Lease.

14. Columbia further requests the right of immediate possession of the Easement for the public purposes set forth above. Because the integrity of the public's natural gas storage is currently threatened, the public will suffer substantial harm if the Court does not confirm Columbia's right to this Easement.

WHEREFORE, Columbia respectfully requests that this Court (i) enter an Order of Judgment of Taking by Eminent Domain as to the Easement, as described herein; (ii) allow Columbia immediate entry upon the Properties described above prior to the determination of compensation and damages, upon deposit with the Court of a sum of money representing the appraised value of such Easement as determined by Columbia; (iii) ascertain and award just compensation and damages to the Wolfes, if any were to be appropriate, for the taking of the Easement; and (iv) grant such other relief as may be just and proper.

Dated: April 9, 2013

/s/ Paul K. Stockman

Paul K. Stockman (Pa. I.D. No. 66951)

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